

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

Review Application No.88 of 2015

G.Padaleeswaran

.. Applicant

Vs.

1.R.Venkatesan

2.The Superintending Engineer (Urban)

Tamil Nadu Electricity Board,
Vridhachalam,
Cuddalore District.

3.The Assistant Engineer (Urban),

Tamil Nadu Electricity Board,
Kandiankuppam,
Vridhachalam Taluk,
Cuddalore District.

.. Respondents

This Review application is filed under Order 47 Rule 1 CPC read with Section 114 of CPC against the judgment dated 13.02.2015 passed in W.A.No.122 of 2015.

For applicant : Mr.C.Prakasam

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ORDER

(Order of the Court was made by **SATISH K. AGNIHOTRI, J.**)

The review applicant, who was the appellant, seeks review of the order dated 13th February, 2015 passed in W.A.No.122 of 2015. Concededly, the applicant seeks to review the order on the same grounds, which were raised at the time of hearing of the appeal. On consideration of all the grounds carefully, the judgment, sought to be reviewed, was passed. The review applicant has not pointed out any error apparent on the face of the record in the judgment sought to be reviewed. The applicant has also not pointed out any facts, which could not be placed on account on non availability even after due diligence taken by the appellant therein. Thus, this is a clear attempt to re-argue the entire appeal under the garb of review application, which is impermissible.

2 The Supreme Court, in *Kamlesh Verma vs. Mayawati and Others*¹, after referring to and considering various decisions on the scope of review in *T.C. Basappa vs. T. Nagappa*², *Sow Chandra Kante vs. Sk. Habib*³, *Northern India Caterers (India) Ltd. vs. Lt. Governor of Delhi*⁴, *Col. Avtar Singh Sekhon vs. Union of India*⁵, *Meera Bhanja vs. Nirmala Kumari Choudhury*⁶, *Parison Devi vs. Sumitri Devi*⁷, *Kerala SEB vs. Hitech Electrothermics & Hydropower Ltd.*⁸ and *Jain Studios Ltd. vs. Shin Satellite Public Co. Ltd.*⁹, summarised the principle of maintainability of a review as under:

1 (2013) 8 SCC 320

2 AIR 1954 SC 440

3 (1975) 1 SCC 674

4 (1980) 2 SCC 167

5 1980 Supp SCC 562

6 (1995) 1 SCC 170

7 (1997) 8 SCC 715

8 (2005) 6 SCC 651

9 (2006) 5 SCC 501

"Summary of the principles

20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in *Chhajju Ram v. Neki* and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poullose Athanasius* to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd.*

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

3 Applying the abovesaid principles to the facts of the case, we do not find any reason to review the judgment as sought for by the applicant. Accordingly, the review application stands dismissed. No costs.

(S.K.A., J.) (M.V., J.)
24.07.2015

Index : Yes/No
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SATISH K. AGNIHOTRI, J.

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M.VENUGOPAL, J.

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